

## **CHAPTER 4**

### **CONTRACT DEVELOPMENT and MANAGEMENT PROCEDURES**

#### **Section 400 Purpose**

This chapter specifies the procedures that CTED staff will implement to develop and manage awards and contracts. The time frame covered by this chapter starts immediately after the award letter is received and continues through the Phase 1 Closeout. A contract manager is assigned to each funded project at the time of the award. The contract manager is the point of contact for communication regarding all negotiations, contract development, disbursement of funds, and any other issues regarding a project.

#### **Section 401 Contract Development**

Contract development begins immediately after the award has been made and the HTF contract must be executed within 12 months of the award notification letter from the Department.

- The award letter includes the initial terms and conditions which may be renegotiated.
- Repayment to the Department will be maximized while maintaining project viability.
- The standard HTF contract contains specific terms and conditions that are negotiable and general terms and conditions that are not negotiable.

##### **401.1 Contractor Training**

Staff will offer contractor training after each application round. This is an opportunity for recipients to learn about the requirements of the HTF funding and development process and to address any concerns that they may have. Contract managers are available anytime to discuss any specific project issues.

##### **401.2 Project Data Sheet** (see Exhibit 4-1)

Recipients will fill out a Project Data Sheet (PDS) and send it to the contract specialist. Using that information, the contract specialist will develop the initial draft of the contract and related legal documents.

- The contract specialist will send those documents to the contract manager for review.

- At this point, the contract manager may fill in additional information or make changes as applicable.
- After the contract manager has approved the initial draft of the contract and related documents, the contract specialist will send them to the recipient for review.

#### **401.3 Contract Manager**

The contract manager is the point of contact for all communication regarding the contract and related legal documents.

- The contract manager will review, negotiate, and, ultimately, approve all final documents and all invoice voucher requests.
- The contract manager is the person responsible for decisions, recommendations, and oversight, as applicable, for each assigned project.
- The contract manager will draft escrow/loan closing instructions for each project, which identifies the prioritization of recorded documents and specifics regarding the purchase of extended lender's title insurance.

#### **401.4 Assistant Attorney General Review**

After the recipient and the contract manager have come to agreement on the wording of the contract and related legal documents, the contract manager will request that the contract specialist forward the final agreed upon language to the Assistant Attorney General (AAG) for review and signature.

- If the AAG does not accept the language, the contract specialist will inform the contract manager about the issue(s) so that the contract manager can negotiate revised language with the recipient.

#### **401.5 Recipient Signature**

After the AAG signs the contract and returns it to CTED, the contract specialist will send the following documents to the recipient:

- Three identical original contract documents which need to be signed;
- Related legal documents which must be signed;
- Signature authorization form (Exhibit 4-2) which must be completed;
- Escrow/loan closing instructions which must be complied with.

#### **401.6 Document Processing**

The recipient sends the signed contract (3 originals), a completed signature authorization form, promissory note, and assignment, if applicable, back to the contract specialist while

keeping the deed of trust, low-income housing covenant, and other documents which must be recorded.

- It is the responsibility of the recipient to record all documents specified by the Department in escrow or other instructions.

#### **401.7 Promissory Note**

The contract specialist puts the original promissory note in the safe after making a copy for the contract file.

#### **401.8 Contract Execution Date**

The contract specialist forwards the contract to the Assistant Director of the Housing Division for signature.

- The date of this signature becomes the contract execution date because it is the last signature.
- The contract specialist gives one of the executed contracts to the contract manager for the project file, one goes to the Department's Administrative Services Division, and one is sent back to the recipient.

### **Section 402 Contract Management**

Contract management begins as soon as the contract is executed. The purpose of this section is to specify the actions and documents for staff in managing the oversight of acquisition, construction, or rehabilitation of a project from contract execution to occupancy.

#### **402.1 Signature Authorization** (see Exhibit 4-2)

The recipient will correctly complete a Signature Authorization form for each contract. The signature authorization form must be returned to the Department before the contract is signed by CTED and before any vouchers are approved or any funds are disbursed.

#### **402.2 Site Visits**

Site visits will be conducted at the discretion of the contract manager or when requested by the contractor.

The WCRA will provide construction review services to the Department. The contract manager will review and approve construction draws based upon recommendations from the WCRA.

If CTED is a permanent take-out lender, CTED staff or a subcontractor may do a site inspection prior to closing on the permanent loan. CTED may contract with a professional inspection or commissioning service to verify the completion of the project up to the housing standards and other agreed upon features.

### **402.3 Desk Monitoring**

Oversight of the contract during the development phase is primarily carried out through monitoring the progress of a project from the office. This is accomplished through the receipt of required documentation and telephone contact with the contractor.

- All contractors should be aware of the documentation requirements through the availability of this handbook, contractor training, and technical assistance.
- The contract manager collects this documentation and puts it in the project file.
- In addition to collecting all of the required documentation, project oversight and progress review is done through the vouchering process. Back-up documentation is necessary for all line items for which reimbursement is requested. This documentation is reviewed by the contract manager to verify cost eligibility and consistency with the line items in the Development Budget.

### **402.4 Administrative Fee and Inspection Fee**

The Administrative Fee is one percent (1%) of the loan amount. The Inspection Fee is one (1%) percent of the loan amount. (No administrative or inspection fees are collected for HOME funds.)

- These fees must be paid at loan closing or when the first voucher is submitted.
- The contract manager can withhold payment on voucher requests until the fees are received.
- The Administrative Fee and the Inspection Fee are eligible costs, can be included in the Development Budget, and can be requested on the first voucher request.
- Contractors must note their HTF contract number on any payments submitted to the Department.

### **402.5 Voucher Request Processing** (see Exhibits 4-3, 4-4 and 4-5)

The contract manager will work with the contractor to ensure that the first draw occurs within 18 months of the HTF award date. The contract manager reviews and approves all invoice vouchers. The contract manager will make a determination whether each invoice or bill is an eligible cost. If an invoice or bill is determined to be an ineligible cost, the amount must be subtracted from the total requested.

- All invoice vouchers need to have back-up documentation justifying the amount requested. This can be in the form of an approved closing cost statement, invoices for services rendered, materials delivered, or bills from the contractor for staff time and developer fees.
- Costs incurred prior to the execution date of the contract are not eligible.

- WCRA will, at the Department's direction, contact HFU contractors regarding HFU voucher processing procedures. Original vouchers and backup documentation will be submitted to CTED. Copies of vouchers and backup documentation will be submitted the WCRA.
- For each invoice voucher submitted (Exhibit 4-3), an invoice voucher summary, per WCRA's request, shall list each invoice with Development Budget line item detail. The contract manager and WCRA shall determine if any Development Budget line items are being over spent. If a contractor proposes to exceed an original budget line item by 10 percent or more, then the contractor must submit a revised Development Budget showing all funding sources and the new budget line item amounts. If the new Development Budget meets the eligible costs, activities, and guidelines of the HTF and contributes to the completion of the project, then the contract manager will approve the change in uses.
- When the contract manager approves the eligible costs as noted in Section 202.5 in the context of the Development Budget, the voucher is signed off and passed on for payment. All payments will be made through Electronic Fund Transfer (EFT). It is the responsibility of the Contractor to set up the EFT with the Office of Financial Management (OFM) by completing the two forms required. The first is the Statewide Vendor Registration (Exhibit 4-4) that includes the Authorization Agreement for Direct Deposit. The second is Internal Revenue Service Form W9 (Exhibit 4-5). The OFM Vendor Hotline to answer questions about this system is (360) 664-7779.
- At least 10 percent of the developer fee payable from HTF funds shall be retained by the Department until the contractor/borrower has completed the project and complied with all documentation requirements and with the terms and conditions of the contract as applicable up to the completion of development.

#### **402.6 Project Documentation**

All required documentation must be in the project file at the completion of development.

- See Section 208.2 for the list of required documentation.
- The contractor should send the Management Plan to the contract manager 60 days before occupancy for review and approval.
- The submission of this documentation indicates that the organization is responsive to program requirements and is able to progress through the basic project development steps.
- Depending on the scope of a given project, some documents may not apply.

## **Section 403 Contract Amendment**

Amendments are made to executed contracts and are intended to address emergent needs. Increasing or decreasing an award before there is an executed contract is not considered an amendment. Amendments must be executed to be valid and amendments of legal documents are sometimes necessary.

### **403.1 Technical Amendments**

These amendments are reviewed and acted upon on a case by case basis. They include, but are not limited to, an extension of the contract completion date, revisions to the loan terms and conditions, and revisions of target populations served.

- Contractors shall submit amendment requests in writing to the contract manager.
- The request shall describe the requested amendment in detail and provide a justification for it.
- The contract manager will review the request and make a recommendation to the managing director who will make the decision regarding the amendment request.

### **403.2 Monetary Amendments** (see Exhibit 4-6)

These amendments involve an increase in the loan amount for a project. Contractors shall submit amendment requests in writing to the contract manager.

- For amounts not to exceed 10 percent of the original HTF award amount or \$50,000 whichever is less, the contract manager will review the request and make a recommendation to the managing director who will approve or disapprove the request.
- Any amendment request that exceeds 10 percent of the original HTF award or is more than \$50,000 must be submitted to CTED during a regular application round. These amendments will be reviewed and recommendations made according to the evaluation criteria for amendments and the review schedule for the round in which they are submitted.
- All requests for monetary amendments must be substantiated and submitted on the amendment application form prescribed by CTED. Contact the contract manager regarding the submission of an amendment.
- There is no amount set aside for amendments. All HTF funding is consistently oversubscribed with requests far exceeding funds available. The Department cannot guarantee that funding for amendments will be available, or that amendments will have any particular priority in funding decisions.

## **Section 404 Phase 1 Closeout** (see Exhibit 4-7)

The Phase 1 Closeout ensures that contract obligations have been met and all necessary documents are available for inspection upon the completion of development. The Phase 1 Closeout consists of a comprehensive yet abbreviated observation of three important areas:

- Verifying the existence of the structure as detailed in the contract;
- Reviewing each contractually required legal document;
- Reviewing necessary fiscal, administrative and programmatic management documents and systems to ensure continued viability of the project.

The Phase 1 Closeout is documented by staff through the use of the Phase 1 Closeout Checklist.

### **404.1 Timing**

After completion of the project, staff will conduct a Phase 1 closeout. This shall usually be done within three months of project completion.

### **404.2 File Review**

Staff will make sure that all the required documents are in the file (see Section 208.2).

- The Phase 1 Closeout is not complete until all documentation is provided and complete.
- Failure on the part of the contractor to cooperate in providing the documentation can adversely reflect on the capacity of the organization and, therefore, negatively impact any future awards from the HTF.
- Insufficient documentation may also be a breach of contract.
- The file review will normally take place before the site visit.

### **404.3 Site Visit**

The Phase 1 Closeout requires CTED staff to visit the project site. The time and date will be arranged with the contractor. The purpose of the site visit is to verify the completion of the project and complete the fiscal, administrative, and programmatic review. All project-related files must be available in Washington State.

### **404.4 Payment of Retainage**

Upon completion of the Phase 1 Closeout, the contract manager will release payment for the amount of the developer fee that was retained, according to the vouchering procedures in Section 402.5

- Upon completion of the Phase 1, the project file passes to the Portfolio/Compliance Section for monitoring during the remaining time of the contract.

#### **404.5 Letter of Findings**

If any problematic issues are identified during the site visit, the contract manager will notify the contractor in writing of any necessary corrective action and a timeframe for completing the corrective action.